

1-1 By: Wentworth, et al. S.B. No. 354
1-2 (In the Senate - Filed January 13, 2011; February 2, 2011,
1-3 read first time and referred to Committee on Criminal Justice;
1-4 April 5, 2011, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 4, Nays 2; April 5, 2011,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 354 By: Whitmire
1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the carrying of concealed handguns on the campuses of
1-11 and certain other locations associated with institutions of higher
1-12 education.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
1-14 SECTION 1. Subchapter H, Chapter 411, Government Code, is
1-15 amended by adding Section 411.2031 to read as follows:

1-16 Sec. 411.2031. CARRYING OF HANDGUNS BY LICENSE HOLDERS ON
1-17 CERTAIN CAMPUSES. (a) For purposes of this section:

1-18 (1) "Campus" means all land and buildings owned or
1-19 leased by an institution of higher education or private or
1-20 independent institution of higher education.

1-21 (2) "Institution of higher education" and "private or
1-22 independent institution of higher education" have the meanings
1-23 assigned by Section 61.003, Education Code.

1-24 (3) "Premises" has the meaning assigned by Section
1-25 46.035, Penal Code.

1-26 (b) A license holder may carry a concealed handgun on or
1-27 about the license holder's person while the license holder is on the
1-28 campus of an institution of higher education or private or
1-29 independent institution of higher education in this state.

1-30 (c) Except as provided by Subsection (e), an institution of
1-31 higher education or private or independent institution of higher
1-32 education in this state may not adopt any rule, regulation, or other
1-33 provision prohibiting license holders from carrying handguns on the
1-34 campus of the institution.

1-35 (d) An institution of higher education or private or
1-36 independent institution of higher education in this state may
1-37 establish rules, regulations, or other provisions concerning the
1-38 storage of handguns in dormitories that are owned or operated by the
1-39 institution and located on the campus of the institution.

1-40 (e) A private or independent institution of higher
1-41 education in this state, after consulting with students, staff, and
1-42 faculty of the institution, may establish rules, regulations, or
1-43 other provisions prohibiting license holders from carrying
1-44 handguns on premises that are owned or operated by the institution
1-45 and located on the campus of the institution.

1-46 (f) This section does not permit a license holder to carry a
1-47 concealed handgun on or about the premises of a hospital maintained
1-48 or operated by an institution of higher education. In this
1-49 subsection, "hospital" has the meaning assigned by Section 241.003,
1-50 Health and Safety Code.

1-51 SECTION 2. Section 411.208, Government Code, is amended by
1-52 amending Subsections (a), (b), and (d) and adding Subsection (f) to
1-53 read as follows:

1-54 (a) A court may not hold the state, an agency or subdivision
1-55 of the state, an officer or employee of the state, an institution of
1-56 higher education, an officer or employee of an institution of
1-57 higher education, a private or independent institution of higher
1-58 education that has not adopted rules under Section 411.2031(e), an
1-59 officer or employee of a private or independent institution of
1-60 higher education that has not adopted rules under Section
1-61 411.2031(e), a peace officer, or a qualified handgun instructor
1-62 liable for damages caused by:

1-63 (1) an action authorized under this subchapter or a

2-1 failure to perform a duty imposed by this subchapter; or
 2-2 (2) the actions of an applicant or license holder that
 2-3 occur after the applicant has received a license or been denied a
 2-4 license under this subchapter.

2-5 (b) A cause of action in damages may not be brought against
 2-6 the state, an agency or subdivision of the state, an officer or
 2-7 employee of the state, an institution of higher education, an
 2-8 officer or employee of an institution of higher education, a
 2-9 private or independent institution of higher education that has not
 2-10 adopted rules under Section 411.2031(e), an officer or employee of
 2-11 a private or independent institution of higher education that has
 2-12 not adopted rules under Section 411.2031(e), a peace officer, or a
 2-13 qualified handgun instructor for any damage caused by the actions
 2-14 of an applicant or license holder under this subchapter.

2-15 (d) The immunities granted under Subsections (a), (b), and
 2-16 (c) do not apply to an act or a failure to act by the state, an
 2-17 agency or subdivision of the state, an officer of the state, an
 2-18 institution of higher education, an officer or employee of an
 2-19 institution of higher education, a private or independent
 2-20 institution of higher education that has not adopted rules under
 2-21 Section 411.2031(e), an officer or employee of a private or
 2-22 independent institution of higher education that has not adopted
 2-23 rules under Section 411.2031(e), or a peace officer if the act or
 2-24 failure to act was capricious or arbitrary.

2-25 (f) For purposes of this section, "institution of higher
 2-26 education" and "private or independent institution of higher
 2-27 education" have the meanings assigned by Section 61.003, Education
 2-28 Code.

2-29 SECTION 3. Section 46.03, Penal Code, is amended by
 2-30 amending Subsections (a) and (c) and adding Subsection (j), to read
 2-31 as follows:

2-32 (a) A person commits an offense if the person intentionally,
 2-33 knowingly, or recklessly possesses or goes with a firearm, illegal
 2-34 knife, club, or prohibited weapon listed in Section 46.05(a):

2-35 (1) on the physical premises of a school or
 2-36 educational institution, any grounds or building on which an
 2-37 activity sponsored by a school or educational institution is being
 2-38 conducted, or a passenger transportation vehicle of a school or
 2-39 educational institution, whether the school or educational
 2-40 institution is public or private, unless:

2-41 (A) pursuant to written regulations or written
 2-42 authorization of the institution; or

2-43 (B) the person possesses or goes with a concealed
 2-44 handgun that the person is licensed to carry under Subchapter H,
 2-45 Chapter 411, Government Code, on the physical premises of an
 2-46 institution of higher education or private or independent
 2-47 institution of higher education, on any grounds or building on
 2-48 which an activity sponsored by the institution is being conducted,
 2-49 or in a passenger transportation vehicle of the institution;

2-50 (2) on the premises of a polling place on the day of an
 2-51 election or while early voting is in progress;

2-52 (3) on the premises of any government court or offices
 2-53 utilized by the court, unless pursuant to written regulations or
 2-54 written authorization of the court;

2-55 (4) on the premises of a racetrack;

2-56 (5) in or into a secured area of an airport; or

2-57 (6) within 1,000 feet of premises the location of
 2-58 which is designated by the Texas Department of Criminal Justice as a
 2-59 place of execution under Article 43.19, Code of Criminal Procedure,
 2-60 on a day that a sentence of death is set to be imposed on the
 2-61 designated premises and the person received notice that:

2-62 (A) going within 1,000 feet of the premises with
 2-63 a weapon listed under this subsection was prohibited; or

2-64 (B) possessing a weapon listed under this
 2-65 subsection within 1,000 feet of the premises was prohibited.

2-66 (c) In this section:

2-67 (1) "Institution of higher education" and "private or
 2-68 independent institution of higher education" have the meanings
 2-69 assigned by Section 61.003, Education Code.

3-1 (2) [~~(1)~~] "Premises" has the meaning assigned by
3-2 Section 46.035.

3-3 (3) [~~(2)~~] "Secured area" means an area of an airport
3-4 terminal building to which access is controlled by the inspection
3-5 of persons and property under federal law.

3-6 (j) Subsection (a)(1)(B) does not permit a person to possess
3-7 a concealed handgun, or go with a concealed handgun, on the premises
3-8 of a hospital maintained or operated by an institution of higher
3-9 education. In this subsection, "hospital" has the meaning assigned
3-10 by Section 241.003, Health and Safety Code.

3-11 SECTION 4. Section 46.035, Penal Code, is amended by adding
3-12 Subsection (1) to read as follows:

3-13 (1) Subsection (b)(2) does not apply on the premises where a
3-14 collegiate sporting event is taking place if the actor was not given
3-15 effective notice under Section 30.06.

3-16 SECTION 5. Subdivision (1), Subsection (c), Section 46.11,
3-17 Penal Code, is amended to read as follows:

3-18 (1) "Premises" has the meaning [~~"Institution of higher~~
3-19 ~~education" and "premises" have the meanings]~~ assigned by Section
3-20 481.134, Health and Safety Code.

3-21 SECTION 6. Section 411.208, Government Code, as amended by
3-22 this Act, applies only to a cause of action that accrues on or after
3-23 September 1, 2012. A cause of action that accrued before that date
3-24 is governed by the law in effect immediately before the effective
3-25 date of this Act, and that law is continued in effect for that
3-26 purpose.

3-27 SECTION 7. Subsections (a) and (c), Section 46.03, Penal
3-28 Code, as amended by this Act, and Subsection (1), Section 46.035,
3-29 Penal Code, as added by this Act, apply only to an offense committed
3-30 on or after September 1, 2012. An offense committed before
3-31 September 1, 2012, is governed by the law in effect when the offense
3-32 was committed, and the former law is continued in effect for that
3-33 purpose. For purposes of this section, an offense was committed
3-34 before September 1, 2012, if any element of the offense occurred
3-35 before that date.

3-36 SECTION 8. This Act takes effect September 1, 2011.

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